

district court a libel praying seizure and condemnation of eight cases of tomato paste at Pensacola, Fla., alleging that the article had been shipped in interstate commerce, on or about July 2, 1932, by F. G. Favalaro Sons, Inc., from Georgetown, Miss., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Contents 5 Oz. Indian Girl Brand Tomato Paste Color Added * * * Packed by F. G. Favalaro Sons, Inc."

It was alleged in the libel that the article was adulterated in that an insufficiently concentrated strained tomato product had been substituted for tomato paste.

Misbranding was alleged for the reason that the statements, "Tomato Paste" and "Net Contents 5 Oz.", were false and misleading and deceived and misled the purchaser; for the further reason that the article was offered for sale under the distinctive name of another article, and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

This Department did not recommend charge of short weight against this product since no shortage in weight was found in the samples examined.

On May 6, 1933, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

21136. Adulteration and misbranding of cottonseed meal and cottonseed screenings. U. S. v. Swift & Co. Plea of guilty. Fine, \$50. (F. & D. no. 29349. I. S. nos. 32638, 47496, 47497, 50958.)

This case was based on several interstate shipments of cottonseed meal and cottonseed screenings which contained less than 43 percent of protein, the amount declared on the label.

On December 6, 1932, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation trading at Little Rock, Ark., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 26, March 10, and March 17, 1932, from the State of Arkansas into the State of Kansas, and on or about March 10, 1932, from the State of Arkansas into the State of Montana, of quantities of cottonseed screenings and cottonseed meal which were adulterated and misbranded. The articles were labeled, variously: "Guaranteed Analysis Protein 43% * * * Manufactured * * * For S. P. Davis, Shipper, Little Rock, Ark."; "Hayes Brand Cottonseed Meal and Cracked Screened Cottonseed Cake. * * * Guaranteed Analysis Protein 43.00%. * * * Manufactured for Hayes Grain & Commission Company, Little Rock, Arkansas"; "Cotton Seed Cake and Meal 'Superior Quality' * * * Guaranteed Analysis Protein, not less than 43% * * * Distributed By Superior Cake & Meal Co. * * * Kansas City, Mo."

It was alleged in the information that the articles were adulterated in that products deficient in protein, in that they contained less than 43 percent of protein, had been substituted for the articles.

Misbranding was alleged for the reason that the statements, "Guaranteed Analysis Protein 43%" and "Guaranteed Analysis Protein not less than 43%", borne on the tags attached to the sacks containing the articles, were false and misleading, and for the further reason that the articles were labeled so as to deceive and mislead the purchaser, since they contained less than 43 percent of protein.

On June 13, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

21137. Misbranding of tomato juice. U. S. v. Edgar F. Hurff. Plea of guilty. Fine, \$25. (F. & D. no. 29364. I. S. nos. 38683, 38917, 42519.)

This case was based on several interstate shipments of tomato juice in various-sized containers. Samples taken from each of the shipments were found to contain less than the labeled volume.

On April 10, 1933, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Edgar F. Hurff, Swedesboro, N. J., alleging shipment by